

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

5.01: *Filing of Discovery.* Interrogatories under Rule 33 Fed. R. Civ. P. and responses thereto, Requests under Rule 34 Fed. R. Civ. P. and responses thereto, and Requests for Admissions under Rule 36 Fed. R. Civ. P. and responses thereto (collectively “discovery material”) shall be served upon other counsel or parties, but shall not be filed with the Court. Transcripts of depositions taken under Rule 30 or Rule 31 Fed. R. Civ. P. (collectively “deposition”) shall not be filed with the Court. The party responsible for serving the discovery material or taking the deposition shall retain the original and become the custodian thereof.

If relief is sought with respect to any discovery material or deposition, a copy of the relevant portion of the discovery material or deposition shall be filed with the Court contemporaneously with the filing or presentation of the request for relief. *See* Local Civil Rules 7.04 and 7.06.

If discovery material or depositions are to be used at trial or are necessary to resolution of a pretrial motion which might result in a final order on any issue, the portions to be used shall be filed with the Clerk of Court at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated.

When original discovery material or an original deposition is needed for appeal purposes and is not in the record, upon application and order of the Court the necessary discovery material or deposition shall be filed with the Clerk of Court.

5.02: *Filing with the Clerk.* The Court is open on all days except Saturdays, Sundays, and legal holidays. During normal business hours (8:30 a.m. until 4:30 p.m.), documents may be filed with the Intake section of the Clerk of Court's office at the Courthouse in Columbia, the Hollings Judicial Center in Charleston, the Clement F. Haynsworth Federal Building in Greenville, and the McMillan Federal Building in Florence.

If for any reason it is necessary for documents to be filed with the Court between the hours of 4:30 p.m. and 12:00 midnight on any business day for documents due that day, such emergency filings can be accomplished if the party making the request contacts the Clerk of Court or his designee during normal business hours to make arrangements to accept the after-hour filing. The Clerk of Court or his designee is authorized to accept the entire document, or a portion thereof, by having the party fax the document to a designated fax number. The party must also subsequently deliver the original document to the office of the Clerk of Court by 9:30 a.m. on the first business day following the request. Documents received under the procedure shall be date-stamped “FILED” as of the date and time occurring on the facsimile copy.

5.03: *Filing Documents under Seal.* Absent a requirement to seal in the governing rule, statute, or order, any party seeking to file documents under seal shall follow the mandatory procedure described below. Failure to obtain prior approval as required by this Rule shall result in summary denial of any request or attempt to seal filed documents. Nothing in this Rule limits the ability of the

parties, by agreement, to restrict access to documents which are not filed with the Court. *See* Local Civil Rule 26.08.

- (A) A party seeking to file documents under seal shall file and serve a “Motion to Seal” accompanied by a memorandum, *see* Local Civil Rule 7.04, and the attachments set forth below in (B) and (C). The memorandum shall: (1) identify, with specificity, the documents or portions thereof for which sealing is requested; (2) state the reasons why sealing is necessary; (3) explain (for each document or group of documents) why less drastic alternatives to sealing will not afford adequate protection; and (4) address the factors governing sealing of documents reflected in controlling case law. *E.g.*, *Ashcroft v. Conoco, Inc.*, 218 F.3d 288 (4th Cir. 2000); and *In re Knight Publishing Co.*, 743 F.2d 231 (4th Cir. 1984).
- (B) The motion shall be accompanied by (1) a non-confidential descriptive index of the documents at issue and (2) counsel’s certification of compliance with this rule.
- (C) A separately sealed attachment labeled “Confidential Information to be Submitted to Court in Connection with Motion to Seal” shall be submitted with the motion. The sealed attachment shall contain the documents at issue for the Court’s *in camera* review and shall not be filed. The Court’s docket shall reflect that the motion and memorandum were filed and were supported by a sealed attachment submitted for *in camera* review.
- (D) The Clerk shall provide public notice of the Motion to Seal in the manner directed by the Court. Absent direction to the contrary, this may be accomplished by docketing the motion in a manner that discloses its nature as a motion to seal.
- (E) No settlement agreement filed with the Court shall be sealed pursuant to the terms of this Rule.